



Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Department of Agriculture and Consumer Services (VDACS)
Virginia Administrative Code (VAC) citation	2 VAC 5-90
Regulation title	Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia
Action title	Updates language to reflect name change for the National Poultry Improvement Plan
Date this document prepared	January 11, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

The Control and Eradication of Pullorum Disease and Fowl Typhoid in Poultry Flocks and Hatcheries and Products Thereof in Virginia (2 VAC 5-90) is being amended to change the title of the National Poultry Improvement Plan.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On December 6, 2007, the Board of Agriculture and Consumer Services adopted the proposed amendments to 2 VAC 5-90, Rules and Regulations Governing the Prevention, Control and Eradication of Brucellosis of Cattle in Virginia.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Section 3.1-724 states that the Board of Agriculture and Consumer Services and the State Veterinarian shall have the authority, and that it shall be their duty to establish rules and regulations to protect domestic animals and poultry from disease.

Section 3.1-726 authorizes the Board of Agriculture and Consumer Services to adopt regulations pertaining to the reporting requirements for contagious and infectious diseases of livestock and poultry in Virginia.

Section 3.1-730 mandates that the Board of Agriculture and Consumer Services or the State Veterinarian give and enforce directions and prescribe rules and regulations as to separating, feeding, and caring for diseased or exposed animals or poultry as shall be necessary to prevent the animals or poultry affected with disease, or capable of communicating disease, from coming in contact with other animals or poultry not affected.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Amendments to the regulation have been recommended by the Attorney General's Government & Regulatory Reform Task Force. These amendments will update the reference to a United States Department of Agriculture regulation to reflect the current name of that regulation.

The regulation is essential to protect the health, safety or welfare of the poultry industry in Virginia by controlling and eradicating pullorum disease and fowl typhoid. Control and eradication of these diseases are essential to minimize any economic impact that would be experienced by the poultry industry should these diseases not be controlled.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The proposed amendment is believed to be non-controversial. It is a recommendation of the Attorney General's Government & Regulatory Reform Task Force.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

No substantive changes are being proposed to the existing regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

The advantage to the public, Department of Agriculture and Consumer Services, and others is that the language of this regulation is updated to reflect the name change for the National Poultry Improvement Plan. There are no disadvantages.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements that exceed minimum applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities that will be particularly affected by the proposed amendment.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulatory flexibility analysis does not apply.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	None. There will be no new ongoing expenditures related to this action.
Projected cost of the regulation on localities	There are no costs to localities.
Description of the individuals, businesses or other entities likely to be affected by the regulation	Egg hatcheries and independent flocks that hatch eggs.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 900 full-time employees or has gross annual sales of less than \$6 million.	51 such entities are currently listed in the National Poultry Improvement Plan in Virginia, but none of these entities will be affected by this change.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	None

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The amendment will update references to a United States Department of Agriculture (USDA) regulation to reflect the current name of that regulation.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Unless otherwise discussed in this document, the current regulation has no impact upon families.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
30	N/A	All poultry flocks from which hatching eggs are set in any Virginia hatchery must be in compliance with the current pullorum-typhoid provisions of the National Poultry Improvement Plan. (9 CFR §§145.1 through 145.54).	Change "National Poultry Improvement Plan" to "National Poultry Improvement Plan for Breeding Poultry".